

Dated: December 17, 2024.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE514]

Endangered Species; File No. 21516

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for permit modification and request for public comments.

SUMMARY: NMFS received a request from Virginia Electric and Power Company, doing business as (d.b.a), Dominion Virginia Power (Dominion) for modification of an incidental take permit, pursuant to the Endangered Species Act (ESA) for activities associated with the otherwise lawful continued operation and maintenance of the Dominion Chesterfield Power Station in Chesterfield, VA. We are publishing this notice to inform the public that we are considering re-issuing the permit, with modifications, to authorize additional take of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) from the Chesapeake Bay Distinct Population Segment.

DATES: To allow for timely processing of the permit application, we must receive your comments no later than January 21, 2025.

ADDRESSES: The application is available for download and review at <https://www.fisheries.noaa.gov/national/endangered-species-conservation/incidental-take-permits> and at <https://www.regulations.gov>. The application is also available upon request (see **FOR FURTHER INFORMATION CONTACT**).

You may submit comments, identified by NOAA-NMFS-2024-0125, by either of the following methods.

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal <https://www.regulations.gov> and type NOAA-NMFS-2024-0125 in the Search box. Click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Email:** Submit information to Lynn.Lankshear@noaa.gov.

Instructions: Comments sent by any other method, to any other address or

individual, or received after the end of the specified period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.) confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lynn Lankshear, Lynn.Lankshear@noaa.gov or (978) 282-8473.

SUPPLEMENTARY INFORMATION: Dominion is requesting modification of their Incidental Take Permit (ITP) (No. 21516-01) to include the annual incidental capture of up to 18,363 Atlantic sturgeon eggs for the duration of the permit (i.e., through December 30, 2025). All of the eggs would belong to the Chesapeake Bay Distinct Population Segment (DPS) of Atlantic sturgeon that is listed as endangered.

Atlantic sturgeon spawn in well-oxygenated, flowing freshwater over hard substrate with interstitial spaces (e.g., gravel, cobble) of tidally-affected rivers. Male and female Atlantic sturgeon must spawn (i.e., release milt and eggs, respectively) in close proximity to each other and at the same time for fertilization of some eggs to occur. The eggs become sticky within minutes of being fertilized and adhere to the substrate for the relatively short and temperature-dependent period of development prior to hatching (Ryder 1888; Dees 1961; Murawski and Pacheco 1977; Hilton *et al.* 2016; Siddique *et al.* 2016).

Unfertilized eggs that float away from the spawning site are not expected to be fertilized at a later time because milt released elsewhere by a male sturgeon would be quickly dispersed and diluted by the flowing river water making a chance encounter between an unfertilized egg and an Atlantic sturgeon sperm cell highly unlikely. Male Atlantic sturgeon move to the spawning grounds before females and then search for or follow females as each female moves onto the spawning grounds (Hilton *et al.* 2016; NOAA 2017; Breece *et al.* 2021). The scrapes and abrasions observed on male Atlantic sturgeon captured during the spawning season support that, similar to Gulf sturgeon (*Acipenser oxyrinchus desotoi*) and other sturgeon species, male Atlantic sturgeon rub against the female during spawning which induces the

female to release her eggs at the same time as the male is releasing milt (Ryder 1888; Bruch and Binkowski 2002; Sulak and Randall 2009; Sulak 2014; Balazik and Musick 2015). The simultaneous release of eggs and milt in the same location maximizes the number of eggs that are fertilized before river currents disperse the eggs and dilute the milt.

Fertilized eggs that do not adhere to the substrate or that become dislodged from the substrate before hatching are not expected to survive because the environmental conditions at the spawning site are necessary for egg and early life stage survival. The hatched-out embryos and the subsequent larvae need well-oxygenated freshwater, and the substrate used for spawning provides interstitial spaces where the early life stages shelter from predators (Bain *et al.* 2000; Kynard and Horgan 2002; Niklitschek and Secor 2009). A number of fish species have been identified as likely feeding on the early Atlantic sturgeon life stages in the James River and in the other Chesapeake Bay tributaries (Hilton *et al.* 2016; Bunch *et al.* 2021; Secor *et al.* 2022).

As described above, the best available information supports that free-floating sturgeon eggs are non-viable. However, the take of eggs from Atlantic sturgeon listed under the ESA is prohibited unless authorized in a permit in accordance with 50 CFR 222.307 or 222.308 or exempted in accordance with 50 CFR 402.

NMFS published notice in the **Federal Register** on January 11, 2021 (86 FR 1945), that we had issued an ITP (No. 21516) to Dominion pursuant to the ESA of 1973, as amended, for the incidental take of Atlantic sturgeon larvae (*Acipenser oxyrinchus oxyrinchus*) associated with the otherwise lawful operation of the Dominion Chesterfield Power Station (CPS) in Chesterfield, VA. All of the larvae would belong to the Chesapeake Bay DPS of Atlantic sturgeon based on where CPS is located. The permit was issued for a duration of five years.

In September 2021, Dominion captured three Atlantic sturgeon eggs belonging to the Chesapeake Bay DPS while it was carrying out required entrainment monitoring at CPS during a high river flow event. Take of Atlantic sturgeon eggs was not anticipated or authorized in the 2021 permit. Dominion presumed that the eggs were in the vicinity of CPS because of the high river flow event. Therefore, Dominion requested modification of their permit to authorize the incidental take of up to 36,985 Atlantic sturgeon eggs belonging to the Chesapeake Bay DPS during anticipated high river flow

events that could occur during the duration of the permit (*i.e.*, through December 30, 2025). Dominion also requested several changes to the permit conditions based on anticipated operational changes at CPS (87 FR 47190; August 2, 2022).

NMFS re-issued Permit No. 21516 with the modified permit conditions for operational changes only, because Atlantic sturgeon eggs were taken at CPS under normal river flow conditions after the close of the public comment period (88 FR 82324; November 24, 2023). Therefore, Dominion needed to reconsider its presumption that the entrainment of sturgeon eggs could only occur during high river flow conditions and revisit its estimated take of sturgeon eggs at CPS before NMFS could proceed with Dominion's permit modification request to include take of eggs.

Background

Section 9 of the ESA and Federal regulations prohibit the "take" of Atlantic sturgeon belonging to the Chesapeake Bay DPS. The ESA defines "take" to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. However, under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take. "Incidental take" is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing ITPs for threatened and endangered species are found at 50 CFR 222.307.

Dominion is requesting authorization to allow for the incidental take of up to 36,726 Atlantic sturgeon eggs for the duration of the permit (*i.e.*, through December 30, 2025), based on an average annual take of up to 18,363 Atlantic sturgeon eggs (95 percent CI = 4,567 – 47,617). All eggs are expected to belong to the Chesapeake Bay DPS of Atlantic sturgeon, fall spawning population, based on the fidelity of adults to the spawning river and the spawning season.

Conservation Plan

Dominion is proposing to mitigate for the take of Atlantic sturgeon eggs with the same studies that serve as the mitigation for the take of Atlantic sturgeon larvae, "Sturgeon Research Movement" and "Digital Holography," with revisions to the studies as needed.

National Environmental Policy Act

In compliance with the National Environmental Policy Act (NEPA), we analyzed the impacts of the proposed modifications of the ITP and the habitat conservation permit. We prepared a

draft Supplemental Information Report (SIR) that describes why there is no need to supplement the 2020 environmental assessment and finding of no significant impacts. We have made the draft SIR available for public inspection online (see **ADDRESSES**).

We will also evaluate whether modification of the permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis. If the requirements are met, we will issue the modified permit to the applicant.

We will publish a record of our final action in the **Federal Register**.

Authority: This notice is provided pursuant to section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: December 16, 2024.

Lisa Manning,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Meeting of the Ocean Exploration Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Ocean Exploration Advisory Board (OEAB). OEAB members will discuss and provide advice on the Federal ocean exploration program, with a particular emphasis on the topics identified in the section on Matters to Be Considered.

DATES: The announced meeting is scheduled for Friday, January 10, 2025 from 12:30 p.m.–1 p.m. (ET).

ADDRESSES: This meeting will be held virtually. Information about how the public can observe virtually will be posted to the OEAB website at <https://oeab.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Mr. David Turner, Designated Federal Officer, Ocean Exploration Advisory Board, National Oceanic and Atmospheric Administration,

David.Turner@NOAA.gov or (859) 327-9661.

SUPPLEMENTARY INFORMATION: NOAA established the OEAB under the Federal Advisory Committee Act (FACA) and legislation that gives the agency statutory authority to operate an ocean exploration program and to coordinate a national program of ocean exploration. The OEAB advises NOAA leadership on strategic planning, exploration priorities, competitive ocean exploration grant programs, and other matters as the NOAA Administrator requests.

OEAB members represent government agencies, the private sector, academic institutions, and not-for-profit institutions involved in all facets of ocean exploration—from advanced technology to public engagement.

In addition to advising NOAA leadership, NOAA expects the OEAB to help to define and develop a national program of ocean exploration—a network of stakeholders and partnerships advancing national priorities for ocean exploration.

Matters To Be Considered: NOAA laboratory and program science reviews are conducted every five years to evaluate the quality, relevance, and performance of research conducted in NOAA OAR laboratories and programs. On October 9–10, 2024, the Ocean Exploration Advisory Board conducted a five-year program review of the NOAA Ocean Exploration program. Three focus areas were identified for the review: Ensuring a National Program of Ocean Exploration; Technological Innovation and Application; and, Public Engagement and Education. The Board will formally convene on January 10, 2025 to validate and vote on their findings, and upon approval, their Report of Findings and Recommendations will be transmitted to the NOAA Administrator and Under Secretary of Commerce for Oceans and Atmosphere.

The agenda and other meeting materials will be made available on the OEAB website at <https://oeab.noaa.gov/>.

Status: The meeting will be held virtually and be open to the public via remote access. Information on how to access the meeting, the agenda, and the public comment period schedule will be viewable on the OEAB website.

The OEAB expects that public statements at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to three minutes. The Designated Federal